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C O N F I D E N T I A L JERUSALEM 002263

SIPDIS

NEA FOR FRONT OFFICE; NSC FOR ABRAMS/RAMCHAND/PASCUAL

E.O. 12958: DECL: 12/18/2018  
TAGS: [PREL](#) [PBTS](#) [KWBG](#) [KPAL](#) [IS](#)  
SUBJECT: HIGH COURT AGAIN REJECTS IDF PLAN FOR REROUTE OF  
SEPARATION BARRIER

REF: A. JERUSALEM 1803  
[1](#)B. JERUSALEM 1240

Classified By: Acting Principal Officer Greg Marchese for reasons 1.4 (b) and (d).

[1](#)1. (C) Summary. The Israeli High Court of Justice (HCJ) on December 15 again rejected an IDF plan to reroute the separation barrier near the Palestinian village of Bilin. The village's attorney called the decision precedent-setting, noting that it is the first such HCJ decision prohibiting the GOI from taking into account approved settlement expansion plans in barrier construction. End summary.

[1](#)2. (U) The Israeli High Court of Justice (HCJ) on December 15 rejected an IDF plan, released on September 18, to reroute the separation barrier between the Palestinian village of Bilin and the settlement of Modiin Ilit. The HCJ ordered that a third revision to the barrier routing be developed "within a reasonable amount of time." The HCJ had previously rejected a version released on July 2 (ref B).

[1](#)3. (C) Since the HCJ ruled against the GOI routing of the barrier near Bilin in September 2007, the case has been through a series of back-and-forth written and oral arguments about the precise routing of the new barrier. The HCJ has developed an interpretation of a "proportionality standard," which requires the GOI's security needs be balanced with minimum harm to residents of Bilin. Since its September 2007 decision, the HCJ has been increasingly specific about the path the new barrier should take between existing construction and planned construction, at times addressing the future status of specific hilltops or numbered land parcels.

[1](#)4. (C) Bilin's attorney, Michael Sfard, told Poloff December 17 that the decision "is precedent-setting in how you measure the security buffer zone." Referring to the initial HCJ decision in favor of rerouting, he said, "the first Bilin decision said you cannot take into account (settlement) plans that have not been authorized yet. Now, (Supreme Court President Dorit Beinisch) says something even bolder: Not only can you not take into account unauthorized plans, but you cannot take into account authorized plans."

[1](#)5. (C) The court indicated in oral arguments that, if the "proportionality" standard they were describing for balancing the routing of the barrier with Palestinian quality of life "means that planned houses will not be constructed, then so be it," according to Sfard. He said he does not expect the precedent will lead to future rerouting of the barrier where it is already constructed, but may be influential in cases where the barrier is not yet built, especially around Maale Adumim and Gush Etzion.

[1](#)6. (C) Abdullah Abu Rahma, coordinator of the Bilin Popular Committee Against the Wall, told Poloff December 15 that the

village was pleased with the court's decision, noting that the decision requires the GOI to pay NIS 10,000 (USD 2,630) in compensation for the village's attorney's fees.

MARCHESE